

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,

CRIMINAL ACTION NO.
1:12-CR-053-2-CAP

CIVIL ACTION NO.
1:12-CV-1456-CAP

v.

RONN DARNELL STERLING,

Defendant.

ORDER

This action is before the court on the report and recommendation (“R&R”) [Doc. No. 220] of the magistrate judge. Also before the court are objections to the R&R filed by the defendant in which he inexplicably refers to himself as “third-party intervenor.” [Doc. No. 224].

The R&R addresses three post-trial motions filed by the defendant pro se despite the fact that he is still represented by counsel and pursuing his direct appeal. Oddly, the objections concur with the magistrate judge’s recommendation with respect to the motion to vacate [Doc. No. 174] filed by

the defendant: it was improperly construed as a 28 U.S.C. § 2255 motion to vacate. As the magistrate judge recommends and the defendant requests, this motion is not considered a 28 U.S.C. § 2255 motion to vacate and the civil action opened to reflect the § 2255 filing is administratively closed.

Furthermore, the motion to vacate is DENIED WITHOUT PREJUDICE.

Also contained in the objections is the defendant's request to withdraw the other motions addressed by the R&R. However, the defendant's reasoning for his withdrawal (that the motions were construed as pretrial motions) is nonsensical. The magistrate judge clearly articulated that the motion to disqualify and motion to dismiss pursuant to the Federal Rules of Civil Procedure were filed after the trial of the criminal action. Moreover, the magistrate judge's determination that the motions to disqualify and to dismiss are meritless is correct.

The R&R is adopted as the order and opinion of the court. The motion to vacate [Doc. No. 174] is DENIED without prejudice, and the companion civil action is to be administratively closed; the motion to disqualify [Doc. No. 182] is DENIED; and the motion to dismiss [Doc. No. 185] is DENIED.

SO ORDERED, this 18th day of December, 2012.

/s/ Charles A. Pannell, Jr.
CHARLES A. PANNELL, JR.
United States District Judge